

REMARKS

Claims 16-23, 25-44 and 46-47 are pending in this application. By this Amendment, claim 16 is amended, claims 24 and 45 are canceled without prejudice to or disclaimer of the subject matter contained therein, and claims 46-47 are added. No new matter is added.

The courtesies extended to Applicant's representative by Examiner Doan at the interview held November 24 are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below and constitute Applicants' record of the interview.

Entry of the amendments is proper under 37 CFR §1.116 since the amendments: (a) place the application in condition for allowance for the reasons discussed herein; (b) do not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution (i.e., claim 16 is amended to incorporate claim 45, claim 46 is the combination of claim 16 and 19, and claim 47 is the combination of claims 16, 20 and 21); (c) satisfy a requirement of form asserted in the previous Office Action; (d) do not add any claims without canceling a corresponding number of claims; and (e) place the application in better form for appeal, should an appeal be necessary. The amendments are necessary and were not earlier presented because they are made in response to arguments raised in the final rejection and during the personal interview. Entry of the amendments is thus respectfully requested.

In the Office Action, claim 24 is objected to as being duplicative of claim 23. By this Amendment, claim 24 is canceled. Withdrawal of the objection is respectfully requested.

In the Office Action, claims 16-18, 20, 22-24, 26-27 and 45 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 1,364,188 to Draenert in view of U.S. Patent No. 5,487,203 to Brach, Jr. et al. (hereinafter "Brach"). Claims 19, 21 and 25 are also rejected

under 35 U.S.C. §103(a) over Draenert in view of Brach. These rejections are respectfully traversed.

As discussed during the personal interview, claim 16 and the claims dependent therefrom are directed to a toothbrush having a handle provided with an essentially cylindrical and closed inner cavity extending over at least part of the length of the handle in the longitudinal direction of the toothbrush. At least that part of the handle which encloses the cavity includes an at least partially transparent material. The toothbrush further includes an elongated article providing for an aesthetic effect accommodated in the closed cavity and extending in the longitudinal direction of the toothbrush and being visible at least partly through the transparent part of the handle. As further discussed during the interview, the elongated article is a cylindrical, hollow roll in the form of a rolled material bearing with its essentially cylindrical outer surface against an inner wall of the cavity. Claim 45 has been incorporated into independent claim 16.

As discussed during the interview, both the hollow cavity and the roll have a cylindrical surface. To the contrary, Draenert is directed to a toothbrush having a rectangular handle that defines a rectangular cavity, in which flat advertising strips 20 are provided. Draenert's strips are flat and not in rolled form. Moreover, Draenert's cavity is rectangular.

Brach fails to overcome the deficiencies of Draenert with respect to independent claim 16.

As discussed during the personal interview, Brach is not a toothbrush, but a windshield scraper tool. Moreover, the alleged advertising structure (transparent polygonal portion 3 with triangular substrate 10 having letters 7 thereon) is provided on a neck region, remote from the handle of the tool. Additionally, like Draenert, Brach's advertising is on flat panels.

During the personal interview, Examiner Doan expressed her position that Draenert teaches the placement of the transparent cavity in the handle and her reliance on Brach is for the proposition that other shaped articles, such as the triangular substrate 10 in Figure 7, could be provided in a correspondingly shaped cavity. Examiner Doan further asserted that the only remaining difference is a change of shape from triangular to circular. She further indicated that the specification did not appear to support a criticality to such a shape. Accordingly, her position remained that it was mere design choice to modify the shape and that this modification would have been obvious to enable viewing on all sides.

During the personal interview, Applicants' representative pointed out that both Draenert and Brach teach flat rectangular advertising areas. Moreover, Brach's form already allowed viewing on multiple sides. Accordingly, it is not evident from these teachings why one would switch to the particular claimed cylindrical cavity and roll. As also discussed during the personal interview, the use of a cylindrical roll allows the formation of a three-dimensional image that can be viewed contiguously from all sides. This cannot be achieved using the flat sides of Draenert and Brach, Jr. Accordingly, the recited cylindrical cavity structure and associated rolled elongated article do, in fact, achieve advantages that are neither taught nor appreciated in the applied references. For example, as supported by Applicants' specification at page 6, lines 1-10, this provides for a three-dimensional effect or the effect of moving images.

Further, Draenert teaches use of flat advertising strips. At best, Brach teaches folding of a substrate into the illustrated triangular shape of Figure 7. Neither teach or suggest a rolled material that is provided within a cylindrical cavity.

Accordingly, it is respectfully submitted that independent claim 16 and claims dependent therefrom define over Draenert and Brach.

New independent claims 46-47 also define over Draenert and Brach. Claims 46-47 each include all of the features of independent claim 16 and are allowable for the same reasons as claim 16. Moreover, claim 46 further adds that the article is a rolled transparent or translucent rolled section of film butted against the wall cavity. Claim 47 further adds that a closure part is connected non-releasably to the rear of the handle. For these further reasons, claims 46-47 define over Draenert and Brach. Withdrawal of the rejections is respectfully requested.

In the Office Action, claims 28-35, 37, 39-41, and 43-44 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 1,364,188 to Draenert in view of U.S. Patent No. 6,000,410 to Tortorice. Claims 38 and 42 are also rejected under 35 U.S.C. §103(a) over Draenert in view of Tortorice. Additionally, claim 36 is rejected under 35 U.S.C. §103(a) over Draenert in view of Tortorice, further in view of U.S. Patent No. 2,489,707 to Eubanks. These rejections are respectfully traversed.

Independent claim 28 and claims dependent therefrom are directed to a toothbrush having a handle provided with an essentially cylindrical and closed inner cavity extending over at least part of the length of the handle in the longitudinal direction of the toothbrush. At least that part of the handle which encloses the cavity is at least partially transparent. An elongated article providing for an aesthetic effect is accommodated in the closed cavity. The article is formed by an ampoule that (1) is filled with an aesthetic effect element, (2) has printing on the ampoule, or (3) has a film adhesively bonded to the ampoule.

As discussed during the personal interview, Draenert does not teach an aesthetic ampoule in its cavity. At best, it teaches provision of a functional pill 5.

Tortorice provides a handle that itself serves as a container for receiving a fluid. This hollow handle component is not an ampoule. Moreover, even assuming it is an ampoule, it is not taught to be provided inside a hollow cavity of a toothbrush handle as claimed. Rather, it is taught to take the place of an ordinary handle. Thus, if anything, Tortorice teaches against the alleged combination by teaching that the handle itself can contain a fluid. Draenert similarly teaches that the cavity itself can be filled with an object, such as pills 5.

Accordingly, even if combined, the combination teaches against the provision of an elongated article in the form of a sealed elongated ampoule that is accommodated in the closed cavity of the handle and serving to provide an aesthetic effect. Various advantages are achieved by this, such as the ability to readily change ampoules without fluid leakage.

Accordingly, it is respectfully submitted that independent claim 28 and claims dependent therefrom define over Draenert and Tortorice. Eubanks fails to overcome the deficiencies of the above. Withdrawal of the rejections is respectfully requested.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Attachments:

Petition for Extension of Time
Amendment Transmittal

JAO:SPC/fpw

Date: December 27, 2004

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